



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEPHEN A GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD CO 80228

COPY MAILED

NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Farnworth et al.	:	
Application No. 09/266,237	:	ON PETITION
Filed: March 10, 1999	:	
Attorney Docket No. 97-1433	:	

This is a decision on the petition to accept late payment of issue fee, filed October 14, 2004 and March 8, 2005, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED**.

Petitioner states that the Notice of Allowance was never received. An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has complied with the above and submitted a copy of the docket report. In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the \$130.00 petition fee will be credited to petitioner's deposit account as authorized.


¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has also submitted the Issue Fee Transmittal along with the issue fee payment, and new Formal Drawings.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This matter is being referred to the Publishing Division.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.


Frances Hicks
Petitions Examiner
Office of Petitions